



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of
the Request for Opinion Concerning
the Conduct of GARY WILSON,
Board Member,
McDermitt Sewer District,
State of Nevada,

Request for Opinion No.: 08-79C

Subject. /

INVESTIGATOR'S REPORT (Tab A):

Introduction:

On December 15, 2008, an Ethics Complaint was filed against Gary Wilson (Wilson), Board Member of the McDermitt Sewer District (District), alleging that as a board member and a contracted maintenance person for the District, Wilson has a conflict of interest.

Jurisdiction:

As the Board Member of the District, no dispute exists that Wilson is a public officer, as defined by NRS 281A.160. Therefore, the Nevada Commission on Ethics (Commission) has jurisdiction to render an opinion in this matter, pursuant NRS 281A.280 and NRS 281A.440.

1 **Issues:**

2
3 The issue is whether Wilson violated NRS 281A.420.2 and NRS 281A.420.4, when he failed to
4 disclose his pecuniary interest and abstain from voting on the District's budget.
5

6 **Request for Opinion No. 08-79C (Ethics Complaint). (Tab B):**

7
8 On December 15, 2008, an Ethics Complaint was filed by Dale Hartley (Hartley). The following
9 is the summary of the allegations:

10 On February 28, 2008, Wilson violated NRS 281A.420.2 and NRS 281A.420.4 when he failed to
11 disclose his pecuniary interest and abstain from voting on District's budget.
12

13 **Response to Ethics Complaint. (Tab C):**

14
15 A response to an Ethics Complaint was received on December, 22, 2008. Wilson stated that the
16 allegations made by Hartley regarding the payments he received from the District are inaccurate,
17 but Wilson admitted that he failed to disclose his pecuniary interest during the vote on District's
18 budget.
19

20 **Investigation Summary:**

21
22 I interviewed the following individuals and reviewed the following documents:
23

24 **Witnesses interviews and responses (Tab D):**

25
26 Gary Wilson, Subject of the Ethics Complaint No.08-79C, via facsimile on December 29,
27 2008. (Exhibit 1).
28

1 Dale Hartley, Requestor of the Ethics Complaint No. 08-79C, via e-mail on December
2 30, 2008. (Exhibit 2).

3
4 John Moddrell (Moddrell), Chair, District, via facsimile on January 3, 2009. (Exhibit 3).

5
6 **Documents. (Tab E):**

7
8 I obtained and reviewed the following documents and materials relevant to the investigation:

- 9
10 - Copy of the Two Year Contract between McDermitt Community Board (Community
11 Board) and G&P Water Services (G&P) dated December 11, 2006 (Exhibit 4).
12
13 - Copy of the Two Year Contract between the Community Board and G&P dated
14 December 30, 2008 (Exhibit 5).
15
16 - Minutes from the McDermitt Sewer District meeting on February 28, 2008 (Exhibit
17 6).
18
19 - Minutes from the McDermitt Community Board meeting on December 11, 2006
20 (Exhibit 7).
21
22 - Commission's Opinions No. 90-2C and 93-19C (Exhibit 8).
23

24 **Investigative findings:**

25
26 The following are my investigative findings:

27
28 Wilson is a public officer appointed to an elective office of the District. He was appointed to fill
a vacant position in January 22, 2007. As a member of the District, Wilson does not receive any

1 compensation. However, Wilson and his wife Patricia Albisu (Albisu) are small business owners
2 sharing equal parts of G&P.

3
4 On December 11, 2006 the Community Board voted to hire G&P to provide certain services to
5 the McDermitt Water Systems (Water Systems) for a fee described in the contract. At that time,
6 G&P was the only entity interested in the contract. The fee is paid by the Community Board that
7 owns the Water Systems (Tab D).

8
9 In addition, G&P provides maintenance to the Sewer District for a monthly fee of \$350 for
10 clerical expenses, and hourly rate of \$15 for maintenance (Tab E). The monthly fees are charged
11 to the Community Board, but the \$350 is then reimbursed by the District to the Water Systems
12 making the payments part of the District's budget.

13
14 The contract between Community Board and G&P expired on December 31, 2008, but it was
15 extended on December 30, 2008 until December 31, 2010. While G&P provides maintenance on
16 the Water Systems and District, the licensed operator is SPB Utility Services Inc. (SPB). G&P
17 operates under its business license. However, SPB plays no role in financial transactions between
18 G&P, the District and the Community Board.

19
20 On February 28, 2008 the District's Board voted to approve budget for fiscal years 2008-2009
21 (Tab E). Wilson was present, and moved to accept the budget. All board members including
22 Wilson voted in favor. As previously noted above, the District's budget includes monthly
23 compensation of \$350 for G&P to cover clerical expenses (Tab D), however there are no line
24 items in the budget (Tab E).

25
26 I questioned Wilson and asked if he voted to accept the budget during February 28, 2008
27 District's public meeting. Wilson replied that he did. Since the McDermitt community is rather
28 small, it is a common knowledge that G&P provides maintenance to the District. He explained

1 his failure to disclose his pecuniary interest was a mere error as he did not realize his voting on
2 District's budget may result in an ethics violation.

3
4 In addition, Wilson stated that he is not familiar with Ethics in Government laws under NRS
5 281A. It did not occur to him that disclosure was necessary since his salary from G&P comes
6 from the Community Board. He simply omitted the fact that the District reimburses Water
7 Systems for the fee of \$350. There was no specific discussion on this item and there is no line
8 item in the budget for G&P.

9
10 To fully understand this case and establish the need for Wilson's disclosure and abstention, one
11 should evaluate the Commission's Opinion No. 93-19C. In said opinion, the Commission
12 concluded that the public officer did not violate NRS 281A.420.2 (revised NRS 281.501.2) while
13 voting on the executive budget that ultimately included her salary. Her salary was not a line item
14 in the budget. In this case, disclosure was necessary, but abstention was not (Tab E). This case is
15 distinguished from the Commission's Opinion No. 90-2C where the public officer was
16 prohibited from voting on the budget when her salary appeared as a line item.

17
18 It is my understanding that a public officer should determine the need for abstention on case-by-
19 case analysis; however, it appears that the substance of said Opinion is similar to that of Wilson.
20 Therefore it is my opinion that Wilson should be treated as the subject of Opinion 93-19C.

21
22 **Investigative conclusion:**

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24 The evidence supports the claim that Wilson violated NRS 281A.420.4 when on the date as
25 noted below, failed to disclose his pecuniary interest during the vote on McDermitt Sewer
26 District Budget. Based on the totality of circumstances, I conclude that Wilson DID NOT violate
27 NRS 281.420.2 on February 28, 2008.

1 My conclusions are that Gary Wilson:

2
3 1. On February 28, 2008:

4
5 Without disclosing his pecuniary interest in G&P Water Services, Wilson moved to approve
6 McDermitt Sewer District Budget for fiscal year 2008-2009.

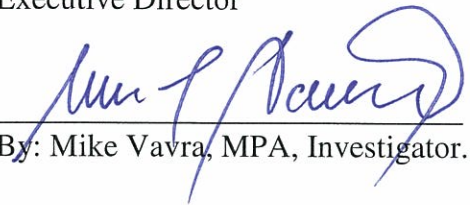
7
8 2. On February 28, 2008:

9
10 Wilson did not abstain from voting on District's budget.

11
12 Therefore, on the allegations in Ethics Complaint No. 08-79C, I conclude that Gary Wilson
13 violated NRS 281A.420.4 by failing to disclose on February 28, 2008, but DID NOT violate NRS
14 281A.420.2.

15
16 Dated this 20 day of January, 2009.

17
18 NEVADA COMMISSION ON ETHICS
19 Patricia D. Cafferata, Esq.
20 Executive Director

21 
22 By: Mike Vavra, MPA, Investigator.